

1 hearings conducted in January and March of 1997, I  
2 believe.

3       Having read all of those thoroughly I'm left to  
4 conclude that the Defense had available by March 5,  
5 2002 to it access to anything that was materially  
6 inconsistent with the testimony that was given by the  
7 witness at that March 5, 2002 hearing, was certainly  
8 aware from her earlier story essentially saying she  
9 knew virtually nothing about the incident. They knew  
10 the statements existed either, not necessarily  
11 Mr. Batson at the time, but certainly prior counsel had  
12 been provided with those statements and there were  
13 references throughout to the prior testimony given  
14 where that prior statement was discussed, therefore,  
15 mindful as I am that the case law instructs that we be  
16 extra circumspect dealing with someone who is a key or  
17 the key witness and not yet expanding this ruling to  
18 potential other testimony that may be offered by way of  
19 impeachment by the Defense, I rule that the preliminary  
20 hearing transcript of Ms. Crews' testimony, March 5,  
21 2002 is admissible under Pennsylvania Rule of Evidence  
22 804.

23       MR. MULLER: Not to jump the gun, how do I deal  
24 with the grand jury testimony if it wasn't available?  
25 Preliminary hearing testimony being read in, that's

1 what I alluded to earlier. How do I procedurally --

2 THE COURT: It's not my job necessarily to  
3 instruct you. I suppose if I believe considering it  
4 unavailable to you as she is or anybody else, she  
5 testified in two other proceedings where she was  
6 subject to cross examination. I don't know if you  
7 considered whether or not the motion to read that would  
8 be appropriate.

9 MR. MULLER: I'm sorry?

10 THE COURT: To present that testimony under 804  
11 as an available witness as inconsistent testimony which  
12 I think -- I think that would be --

13 MR. MULLER: For the inconsistent testimony.

14 THE COURT: Um-hum. Not necessarily the grand  
15 jury testimony but there were other places where it  
16 appears.

17 MR. MULLER: There's quite a bit in the  
18 testimony that doesn't appear or contradicts what she  
19 says.

20 THE COURT: I'm sorry?

21 MR. MULLER: There's quite a bit of grand jury  
22 testimony that contradicts or differs from what she  
23 said in the other statements. Am I going to be  
24 allowed --

25 THE COURT: If you're talking about grand jury

1 testimony alone I haven't ruled on that yet. We'll get  
2 to that later. I was simply saying what was said in  
3 one proceeding was said other places and that perhaps  
4 other preliminary hearing testimony that was given was  
5 of some assistance and might be available to you.

6 MR. MULLER: But you're not ruling on what I  
7 can or can't do with the grand jury testimony.

8 THE COURT: I think I'm going to finish with  
9 the Commonwealth case. We'll deal with that at that  
10 time. I hope counsel can discuss at the conclusion of  
11 the reading of this testimony whether there are  
12 portions of the grand jury testimony that they wouldn't  
13 object to your reading.

14 MR. BARKER: That's what I was going to  
15 propose.

16 THE COURT: I would be inclined to be somewhat  
17 liberal because we are dealing with a key piece of  
18 evidence in this case. As I see it thus far, I haven't  
19 heard it all and that I would be inclined to allow  
20 latitude. I could not find, after a quick review over  
21 the lunch hour, either an avenue or rule that would  
22 allow me to allow you to just enter nontestimonial  
23 statements, but I don't know when I thought about it  
24 that there wasn't other testimony in the statements  
25 that may be of essentially close, similar or equivalent

1 value to you. I'd like the Commonwealth to finish its  
2 case and then you'll have an opportunity hopefully to  
3 discuss this matter during breaks and see if there are  
4 some portions or all of the grand jury testimony which  
5 might be admissible without objection.

6 Are we ready then to bring the jury back in?

7 MR. McCORMACK: Yes. Our next witness is Matt  
8 Taylor.

9 (The jury entered the courtroom at 1:30 p.m.)

10 THE COURT: Proceed, Mr. McCormack.

11 MR. McCORMACK: At this time we call Detective  
12 Matt Taylor.

13  
14 MATT TAYLOR,  
15 having been sworn, was examined and testified as  
16 follows:

17  
18 DIRECT EXAMINATION

19  
20 BY MR. McCORMACK:

21 Q Sir, can you please state your name for us?

22 A Matt Taylor.

23 Q And by whom are you employed?

24 A The Harrisburg Police Criminal Investigation  
25 Division.



1 Q How long have you worked for the Harrisburg  
2 police?

3 A Nineteen years.

4 Q And how long have you been in the Criminal  
5 Investigation Division?

6 A Eleven years.

7 Q We heard from Corporal Muldrow earlier today.  
8 He was the patrol officer who responded to this case.  
9 Either him or someone else indicated that you were the  
10 lead investigator in this case; is that correct?

11 A I ended up being, yes.

12 Q What does it mean? We see the term on  
13 television, some detective is suddenly called the lead  
14 investigator. What responsibilities go with that?

15 A Basically it means that our -- most of the  
16 information is forwarded to you. You try to be  
17 involved in as much of the interviews as possible and  
18 when it comes time to filing charges if there's charges  
19 filed you're responsible for that.

20 Q Now, were you involved in investigating the  
21 death of Iris Fennel on December 20, 1996?

22 A Yes, I was.

23 Q Did you respond to the scene?

24 A Yes, I did.

25 Q Do you recall when you responded to the scene?

1       A    1232 hours; I responded at 12:32 in the  
2 afternoon.

3       Q    What did you find when you arrived at the  
4 scene? Was it 1941 McCleaster Street?

5       A    Yes.

6       Q    What did you find when you arrived?

7       A    I went to the front door of the home. I found  
8 the victim in the bedroom area, which is located in the  
9 upper half of the house, the upstairs part. I found  
10 her apparently deceased and the house, the bedroom in  
11 disarray, found -- smelled -- what smelled like food  
12 that burnt, noticed some burnt food in the kitchen area  
13 on top of the stove and inside the stove.

14      Q    Did you observe the victim?

15      A    Yes, I did.

16      Q    Did you make any notations of -- what did you  
17 notice concerning the victim?

18      A    I noticed the victim lying in the bedroom of  
19 the home, like I said, which was located on the upper  
20 half of the home. I noticed that her head was tilted  
21 to the left. She was laying on her back. I noticed  
22 that she was wearing a shirt and there was a sheet  
23 covering her from her waist down. There was a  
24 distinctive black mark on the right side of the  
25 victim's facial cheek. There was blood around the

1 victim's nose and face and her head was under some  
2 shelves that were located in the southeast corner of  
3 the bedroom.

4 Q I want to show you what has been marked as  
5 Commonwealth Exhibit No. 14. Could you take a look and  
6 become familiar with that item first and I'll ask you  
7 questions about it.

8 A Yes.

9 Q Do you recognize that item?

10 A Yes.

11 Q What is it?

12 A That's the victim.

13 Q Is that where you saw her when you were in the  
14 home on December 20th?

15 A Yes, except she had a sheet from the waist down  
16 when I got there.

17 Q Do you recall what color the sheet was?

18 A No, I don't.

19 Q Now, on the 20th when you were at the scene,  
20 was there anything else you did at the scene?

21 A While I was at the scene I checked the house  
22 out and then I was told by Sergeant Drobenak to conduct  
23 a neighborhood canvass, which is basically where we go,  
24 we knock on doors of various houses in the area and see  
25 if people saw or heard anything. So that's what I did.

1 Q You spoke to certain witnesses at that time?

2 A Yes, I spoke with two individuals actually  
3 which was the victim's brother and his girlfriend,  
4 Zachary Belcher and his girlfriend, Socorro Roman.

5 Q Now, at this point in time did you have an  
6 opportunity to speak with a man by the name of Tyshaunt  
7 Love?

8 A Yes, I did.

9 Q And where did you speak to Tyshaunt Love?

10 A I spoke with Tyshaunt Love at the police  
11 station at 123 Walnut Street.

12 Q Do you know what time you were speaking with  
13 him?

14 A It would have been about 4:03 p.m. that day.

15 Q We heard detective -- Officer Zimmerman  
16 indicate that he was part -- attended a portion of the  
17 interview of the Defendant, Tyshaunt Love. Were you  
18 present for that interview with Officer Zimmerman?

19 A Yes.

20 Q Was a formal statement ever taken at that time?

21 A Yes.

22 Q And the formal statement was taken. How was  
23 that done?

24 A Basically what we do is, we have a secretary,  
25 myself, Detective Zimmerman, we went to the secretary's

1 office with Tyshaunt Love.

2 At the beginning we asked, just tell us what  
3 happened. They tell us from the beginning to the end  
4 what they know about the case. Then we ask more  
5 detailed questions to them, question/answer type thing;  
6 and the secretary transcribes everything. She types it  
7 and prints it out. We have the Defendant check it,  
8 sign it, date and time it.

9 Q Did you do that in this case?

10 A Yes.

11 Q Did you bring a copy of the statement with you?

12 A Yes.

13 Q When you spoke with the Defendant essentially  
14 what were you asking him?

15 A What was I asking him? What happened. I mean,  
16 when we got there, you know, we talked to him, talked  
17 to him down at the station, basically what he knew  
18 about the case, what he could tell us.

19 Q Did he provide you any information about what  
20 happened?

21 A He gave us a bunch of information. Basically  
22 that he had left the night before.

23 Q Rather than relying on your memory, do you have  
24 a copy of the statement there?

25 A Yes.

1 Q Did you ask, tell us in your own words what  
2 happened; is that correct?

3 A Yes.

4 Q What did he tell you? Could you read for us  
5 what he told you?

6 THE COURT: Slowly.

7 THE WITNESS: Last night, um, last night I was  
8 outside approximately -- just out, and when I left the  
9 house Iris was asleep and this was around approximately  
10 5 something because school was out. Plus I had been in  
11 the house it was about 5:30, 6:00. It had to be when I  
12 left. When I left I walked to 14th and Market. I went  
13 in the bar, for the midnight special, at 14th and  
14 Market. I was in the back. I played a few games of  
15 pool and I was basically just out and about.

16 Called my house around 8 or 8 something; was  
17 the first time I called and the phone just was ringing  
18 so I just wrote it off as she's asleep or she, um, went  
19 outside. So after that I called maybe around -- not  
20 too far after that, maybe an hour and change down the  
21 line and the phone just rang. I called her another  
22 time shortly after that and the phone just rang.

23 So after that I didn't call for a while. Then  
24 I had seen her. It was around 11 something. She came  
25 in Fav's bar around 11 something. That was the first

1 time I seen her that night.

2 I seen her. I spoke to her, whatever. I asked  
3 her where she was and she said she -- she said in the  
4 house. She had just woke up. So she just woke up. I  
5 said, so you didn't hear the phone ringing at all. She  
6 said no. She said I just woke up and came outside.  
7 And I said, um. I'm think that -- we was in the bar,  
8 said that she went, and she started speaking to her  
9 female friends in the bar. She spoke to Vetta. She  
10 spoke to Wendy. I don't know their last names. Tawana  
11 and they were speaking.

12 After that she went outside and I was still in  
13 the bar and she had a flannel like mine on, and they  
14 are warm like winter jackets, but they are not that  
15 warm. And Vetta, she had said to me, um, she said  
16 Shawn --

17 MR. MULLER: Objection.

18 MR. McCORMACK: It says Shawn.

19 THE WITNESS: You should give -- she said you  
20 should give Iris your jacket. It's cold, and I said --  
21 told Vetta, um, if she wanted -- I said -- 'I think I  
22 said if she came outside with just that she must be  
23 warm because if she wanted a jacket she could have put  
24 one on. Like we was joking. It wasn't a serious  
25 conversation. She was give her your jacket. It wasn't

1 a serious conversation.

2 So after a while, after she said that, um, I  
3 laughed. Then I went to look. I thought about it and  
4 I said she might need my coat, I said to myself. So I  
5 said let me go ask her if she wanted my jacket. That's  
6 what I said to myself. So I went outside to see if she  
7 was in front of the bar gossiping with her female  
8 friends and I didn't see her. So I asked, um, Duke --  
9 this guy his name is Duke -- I said, did he see her,  
10 did you see Iris? He said she was just out here.  
11 She's around here somewhere. Um, then I asked, I asked  
12 him did you see -- I asked him did you see who she was  
13 with? He said I don't know, one of these girls, one of  
14 her, um, girlfriends basically. So I asked him, um,  
15 which one, and he said I don't know. I don't know her  
16 name. So I -- and the next word is spelled, W N E T, I  
17 assume it means went, supposed to be went -- went down  
18 a list of names and he said it wasn't none of them and  
19 the fact was that all of them was right there that I  
20 could see them, the girls that she socialized with.

21 So I asked him. I asked the guy who I talk to.  
22 His name is Clay, as I know him as, and I asked him, I  
23 asked which one, how does she look, which one? And he  
24 said the short girl he said you know her, whatever, and  
25 I said well, is it Lee? This is a female that I know



1 as Lee because I did see her in front of the bar. She  
2 was right there when Iris went out of the bar. So I  
3 said to him so they -- so they went somewhere together,  
4 and he replied, yeah, but I don't really think that he  
5 really knew what he was talking about for real because  
6 she came back about 15 or 20 minutes later, and I asked  
7 her -- I asked her was Iris with her, did she see Iris?  
8 Where did she see -- was she with Iris and she said no  
9 she wasn't with her. And I said where could she be  
10 because I was talking at this time to Clay and to, um,  
11 Clay and to Wendy -- excuse me -- not Wendy, to Lee and  
12 she said, um, she's, like, I don't know. She wasn't  
13 with me.

14 At that point, um, at that point I went  
15 probably to the phone and called cause I called a few  
16 times and there was no answer. The reason I kept  
17 calling cause when she came in the bar she had told  
18 me -- and to be perfectly honest Iris told me she was  
19 looking for weed. She said she was going into the  
20 house and I said that I wanted to go in the house too.  
21 It was cold. She said okay to me. She went into the  
22 crowd and was talking to her female friends. I went to  
23 the back and they were in front talking by the  
24 bathroom. I just walked in the back.

25 I came back up front. That's when -- that's

1 the point in time that Vetta told me about the jacket  
2 that I went outside -- then I went outside. I asked,  
3 um, did they -- I was asking people did you see her,  
4 did you see where'd she go. I was asking -- I asked  
5 Wendy later on, later on maybe an hour down the line.  
6 After I didn't see her about an hour I pulled Wendy to  
7 the side, as a matter of fact, and asked her. I said,  
8 well, did Iris tell you where she was going? And she  
9 said Iris told her she was going home. I said, did you  
10 see which way she walked? Who she got in the car with?  
11 She said she got in the car. I don't recall if it was  
12 a blue or red station wagon, but with a lady or a girl.  
13 She got in the station wagon that was either blue or  
14 red. I didn't see the station wagon. They told me.

15 After she said that I just -- I think at that  
16 point I went to the phone in Fav's and I called my  
17 house again and there was no answer. That was around,  
18 way after like an hour had went by so it was 12, a  
19 little bit after 12. I called Toothie before I went to  
20 her house and I told her -- she was telling me the  
21 address and I said I don't know what you're talking  
22 about, and she said to me meet me in front of the  
23 church which is on Vernon Street. I talked to Wendy.  
24 It was about 12 something, and I think that's when I  
25 went to Toothie's house and she lives on Vernon. I

1 don't recall the number or the address. I know where  
2 the house is at. I went to meet Toothie. She wasn't  
3 at the church and her house is about two or three doors  
4 down from the church. I walked down there and you  
5 heard her call my name cause I walked by the porch and  
6 she called my name. We talked. We went into her  
7 lobby. I talked to her for probably like 15 or 20  
8 minutes. Then I told her that, um, I would call her.  
9 I would probably be back, but I would call her before I  
10 came back. Then I went back to 14th and Market to  
11 Fav's bar. I asked around, asking everybody did they  
12 see Iris? Did she come back? And everybody said no.

13           Around this time I had seen a pizza delivery  
14 guy that I know driving by. His name is Calvin. I  
15 asked Calvin because he knows -- did he see her. He  
16 knows her. I asked -- I asked him could he drive me to  
17 the house so I could see if she was there. He drove me  
18 to my house. I went in, looked all the way in the  
19 house. There's nothing out of place. I went down in,  
20 um, the downstairs in the kitchen. I came right back  
21 out, out the door and the pizza man took me back to  
22 14th and Market, to the bar.

23           Before I got out of the car I asked him if  
24 you're still out cruising around or just out. He just  
25 got off of work. Basically that's how I got my time

1 frame. He got a clock in his car. It was like 12  
2 something, 12:30 something. I asked him could he come  
3 around in about a half hour to check on me cause I'm  
4 going to need a ride instead of me waiting for a cab.  
5 I told him I was just coming out to look for Iris. I  
6 told him I just needed a ride because a cab would take  
7 forever. He said okay.

8 He let me off and I was at the bar. Nobody  
9 seen her. Nobody seen her. So I just pretty much  
10 thinking all type of stuff, like a, usually her word is  
11 good. She told me she was going to go home. She  
12 always waited for me. She never just left me. We  
13 lived together. We would go home together.

14 Then I was in the bar. I know I called again  
15 probably around at that time to see if she went in the  
16 house. It was probably 12:40 or something like that.  
17 I phoned her in front of Kentucky Fried Chicken. I  
18 used that phone. So around one, around one, one  
19 something, I guess it had to be just around one -- it's  
20 not 2 because I looked in the bar for Iris and it was  
21 till -- it was still open. So I asked this guy I know  
22 as Horse, H-O-R-S-E, to take me to see where she was.  
23 At first he didn't want to. I told him if I was  
24 driving I would take him cause this was really  
25 important because she wouldn't just disappear just like

1 that and not tell me nothing. So he drove me. He was  
2 in the car with also this girl, the girl, Lee, wanted a  
3 ride home or somewhere.

4 First he took me to my house and I, um, went  
5 in. Everything was the same as how I had left it the  
6 other time, no signs, just the bedroom light on and,  
7 um, she wasn't there. I just went in and checked our  
8 house. I walked out of my house again. I went back to  
9 the car. He drove me back off and he said he was going  
10 to drop Lee off somewhere, and I asked him if he was  
11 coming back out and he said no. He said he was staying  
12 in.

13 For me, I just stood around and just looked. I  
14 was tired of asking people. People was like the girl,  
15 like -- I wasn't, like, worried that something was  
16 wrong with her and people was just tired of me asking  
17 where she was or whatever. It was basically a phone in  
18 front of this pool and game room and a lot of Latino  
19 people is always in front of it. It was right before  
20 you get to Vernon. It's facing like you're going  
21 towards State, and I went in there for a minute and I  
22 came out to use the phone, and I then called again, no  
23 answer. Then I called Toothie and asked her what was  
24 she doing, and she said nothing, just laying here  
25 watching TV. She asked me what I was doing. I said

1 basically, I told her that I was looking for Iris and  
2 told her I don't know where she went. I said she was  
3 probably with some dude or something cheating on me or  
4 whatever.

5 And, um, from there I was like, well, um, since  
6 she's not home I don't know what's up with her. She  
7 not home, and I asked her, um, what she was doing and  
8 would she like to spend time with me and she said  
9 where. I said, um, say my old head pop-pop's house.  
10 That's what I call him. She asked was I going to come  
11 get her and I said if I could get a ride, yeah, if I  
12 could get a ride, yeah. And she said if I come over  
13 I'm spending the night. I said that's all right. You  
14 can do that. She said, um, Iris going to kill you if  
15 you don't go home tonight. So I hung up with her after  
16 telling her that I don't know if -- I would call if I  
17 got a ride and it depends on what's going on with Iris  
18 if I would see her tonight. I went back. I went -- I  
19 didn't enter the bar. I went in the front of the bar  
20 and asked again several people did they see Iris and  
21 they said no. I asked, well, is she in the bar? And  
22 they said no.

23 From there I walked to, um, Balm Street. I  
24 don't remember the address, but it's an all white house  
25 in the corner of the alley with turquoise shutters on

1 it where I know a guy, pop-pop I call him. I had been  
2 talking to him for a long period of time that he was  
3 thinking about renting. He told me the room was not  
4 ready. I told him that would it be all right if I  
5 stayed on the couch. He said yeah. I told him -- I  
6 asked him, can I use the phone and he said it was cut  
7 off. I asked him where's the nearest pay phone or  
8 nearest phone. He told me up the street and around the  
9 corner, and I told him that me and my girl was acting  
10 up. She supposed to be somewhere and she not there  
11 basically and I told him I'm about to have. I said,  
12 would it be all right if I had female company. It's  
13 not my girlfriend but it's my friend and he said sure.  
14 Then I see Mike in his apartment. This is the man I've  
15 known for about a year and a half. I said what's up to  
16 him and I was about to leave. He said -- he said, um,  
17 where are you going? And I can drive you there and I  
18 said, oh, I forgot that you are driving, that you have  
19 a car.

20 So I gave him gas money. He said where do you  
21 want to go? And I said since you driving take me by  
22 the Olympic on Derry Street so I can see if my girl is  
23 there. She over there all the time. I went into the  
24 Olympic and I asked her friends, people that I know  
25 that she knows and also a person that works back there.

1 A guy named Johnny, had they seen her and Johnny said  
2 earlier, much earlier. I bought a box of cigarettes  
3 and I went back to the car.

4 I told Mike to pull over at the phone on 13th  
5 and Derry. It's right next to that little store. I  
6 guess it's called New York Fashions. I called again.  
7 No answer. So after I hung up I called Toothie. I  
8 asked her, um, what was she doing? She said nothing.  
9 I told her, um, I said that I'm driving -- I'm with  
10 somebody that's driving, do you want to come over and  
11 chill with me? She said I don't care. I told her I  
12 was right around the corner. I would be there like  
13 three minutes. Listen for the horn to honk. Honked  
14 the horn. She came all out and got in the car. We  
15 went back to Balm, went straight to Balm Street. At  
16 Balm Street we chilled on the couch. We talked for  
17 about a hour. We were watching this movie. I don't  
18 know if it's Showtime or HBO. It was a ninja movie.  
19 Then turned off the light and tried to go to sleep.  
20 But pop-pop kept coming down the stairs making a whole  
21 lot of noise.

22 We messed and we stayed there till about 10  
23 something this morning, maybe 10, 10 something this  
24 morning. We left the house together and then I stopped  
25 on Balm Street. I said it would be best if we not be



1 seen together because Iris probably out here right now.  
2 I told her, um, I told her to beep me. She told me  
3 that the beeper don't work. So I told her I would go  
4 write the number off the beeper to her house cause I  
5 know I never remember it cause I'm terrible with  
6 numbers.

7 We hugged. I went back to pop-pop's house to  
8 look at her number off of the beeper cause actually I  
9 left the beeper at pop-pop's house. He told me to  
10 write it down. I said I don't do numbers because if  
11 Iris found it she'd kill me and I had told him I might  
12 be coming back here with her cause she's going to want  
13 to know where I was all night. I said just don't  
14 mention something. I was just here on the couch by  
15 myself. He said I know and I left. When I left from  
16 there I went to -- I walked to Kentucky Fried Chicken  
17 on 14th and Market. I asked a few people that knew her  
18 if they had seen her this morning and they said no. I  
19 called the house. The phone just kept ringing. I  
20 called two times this morning and I went to Kentucky  
21 Fried Chicken. I bought two corn breads and butter. I  
22 was eating it, looking for a cab, and I seen, um, Diane  
23 and, um, I know her name, um, it's a girl, Diane,  
24 always be with. Diane was driving the car. She was  
25 with -- I forgot her name right now. It will pop in my

1 head. They drove me to 19th and Kensington. I got out  
2 of the car right there at the corner of Kensington. I  
3 walked on the opposite side of the church because  
4 that's the side I got out on. I walked straight up the  
5 alley to, um, the front door and immediately I smelled  
6 something that was wrong. It was a burning smell.

7           It was just a foul smell, like burn, like  
8 something was burning. I knocked on the door. No  
9 answer. I took the bottom doorknob and I turned it,  
10 the bottom lock was unlocked and the top lock was  
11 locked.

12           It's not unusual because she always locked the  
13 top lock because when she mad at me she lock the top  
14 lock because I don't have a key. I looked. I seen  
15 someone cleaning out the neighbor's dog cage. At first  
16 I thought it was the dog cages. The smoke was too  
17 strong and I said, no, ain't no dog smelling like that.  
18 I ran around to the back door and I knocked, boom,  
19 boom. The second knock the door came wide open. As  
20 soon as I entered the house the oven was on. I seen a  
21 whole lot of smoke. I turned off the burner that I  
22 seen that was on and there was food on top of the stove  
23 that looked burned up. It was an aluminum pan with I  
24 think biscuits in it or something. There was a whole  
25 lot of burned stuff. I pushed the button to turn off

1 the stove. I went up the stairs and I said Iris, Iris,  
2 you burning down the house again? Where the hell you  
3 at? What are you doing? I was walking up the stairs.  
4 I didn't see nobody yet. I reached the top of the  
5 stairs. I look completely to my right. I looked at  
6 the whole room. I seen the whole room out of order.  
7 My stereo was knocked down, mattresses moved, so I  
8 advanced forward which is only three steps from the top  
9 of the steps to the living room. And I looked in the  
10 living room. I didn't see nobody.

11           It was nothing but smoke. I turned back around  
12 -- I turned back around, my head. I looked down I  
13 said, damn, what the fuck, and then I looked and as  
14 soon as I turn around the stereo, it was knocked, and  
15 the mattresses was moved and then I seen her with  
16 nothing on but T-shirt. I seen her legs first and her  
17 private because she was on the floor and her legs was  
18 open. But I couldn't see the rest of her cause her --  
19 there wasn't nothing over her or anything, but it was  
20 just how she was laying in the corner. Her head was up  
21 under the shelf. So I ran to her and I said, Iris,  
22 Iris, what's the matter? And I like shaked her leg and  
23 she didn't move.

24           I pulled her legs about 3 inches so I could see  
25 her face. I seen a black mark and I was saying, Iris,

1 get up. Iris, what's wrong? And I was shaking her. I  
2 was just shaking her. I was like telling her to get  
3 up, get up. I put my ear like to listen to hear her  
4 heartbeat and I didn't hear nothing. I ran out the  
5 back door hollering for help and the next-door neighbor  
6 was in the -- she was in her -- out her back door and  
7 she was asking me, well, what's going on? Was there a  
8 fire?

9           At the same time her brother was running around  
10 the back to the back door and he asked -- he said, is  
11 that smoke? Is the house on fire? I said the food was  
12 on fire. I said it's Iris. She's just laying there.  
13 She not moving. I don't know what's wrong with her. I  
14 said call the police and call the ambulance. So he  
15 came to the door. He didn't go all the way in. He ran  
16 to where he stays at, to this lady's, Cookie's house,  
17 and I was out all night. I just came in I said, and  
18 she's just laying there not moving, call the ambulance,  
19 call the police. Cookie went over there with me and  
20 she's saying, Iris, Iris, what's the matter? She like  
21 shook her a little bit and she took her pulse and she  
22 pretty much shook her head.

23           The paramedics came around back and someone was  
24 knocking on the front door and there was one paramedic  
25 and one black officer and she said who found the body

1 or whatever.

2 BY MR. McCORMACK:

3 Q All that came from your one question?

4 A Yes.

5 Q Tell me in your own words what happened.

6 A Yes.

7 Q Did he ever mention to you whether he had a key  
8 to that house? Do you recall having a conversation  
9 with him about a key?

10 A I remember a key. He said he dropped the key.

11 THE COURT: You're referring to something in  
12 addition to the mention of the top lock and the key to  
13 that, right?

14 MR. McCORMACK: Well, I'm not sure. There's a  
15 portion of the statement later on where he talks about  
16 the key and that's what I wanted to get into, get the  
17 Defendant's words and that.

18 THE WITNESS: I do remember a conversation  
19 about the key towards the end of the statement.

20 BY MR. McCORMACK:

21 Q Do you see where I'm talking about?

22 A Not yet. Okay. I'm there.

23 Q Did you ask him if he had a key to the front  
24 door?

25 A Yes.

1 Q What did he say?

2 A Yeah.

3 Q What was your next question?

4 A I asked him where was the key now.

5 Q Where did he say the key was now?

6 A The keys on Swatara. When I was walking, when  
7 I got out of the car I dropped it on the street next  
8 to, um, the pole, like a telephone pole and there's  
9 another pole there. I dropped it so I could tell her I  
10 lost the key and that's why I didn't come in.

11 Q Now, I just want to try to -- after he went  
12 through that whole long recitation of what he did that  
13 night into that morning, did you follow up with a  
14 series of questions to try to clarify some issues?

15 A Yes.

16 Q Did you try to clarify some times with him as  
17 to where he was at what particular times?

18 A Yes, I did.

19 Q Now, at the end of that long recitation of the  
20 things as a result of your first question, was a break  
21 taken at that time?

22 A Yes. We took a break from 5:15 p.m. to 5:25  
23 p.m.

24 Q And you had started this statement at what  
25 time?

1 A 4:03 p.m., 1603 hours.

2 Q So 4:03 p.m. to 5:15 was essentially the time  
3 he was talking, you just read for the jury?

4 A Yes.

5 Q Then you took a break and when you come back  
6 from that break did you ask him some questions about  
7 time?

8 A Yes, I did.

9 Q What did you ask him?

10 A I asked him approximately on the 12/19 1996,  
11 approximately what time did you leave your house?

12 He responded it was like five something.

13 Q You can keep going through the series of  
14 questions.

15 A I asked how long have you lived at 1941  
16 McCleaster Street.

17 His answer, for three months.

18 Question: Who lives there with you?

19 Answer: Iris.

20 Question: Iris what?

21 Answer: Iris Fennel.

22 Question: When you left your house on 12/19  
23 1996 at approximately 5 p.m. where was Iris?

24 Answer: She was, in the bed sleeping.

25 Question: Where did you go when you left your

1 house?

2 Answer: I went to Fav's bar.

3 Question: What time did you arrive at Fav's  
4 bar?

5 Answer: Shortly after I left there I went  
6 straight there. I didn't stop anywhere.

7 Question: Did you have an argument with Iris  
8 before you left the house?

9 Answer: No, before I left, before she went to  
10 sleep she said try to find one of my friends, one of  
11 your friends or my friends that is driving because she  
12 wanted to go to the Supermarket to get some food to  
13 cook. That was before she went to sleep.

14 Q If I could interrupt you then. Did you ask him  
15 around what time he arrived at Toothie's house?

16 A Yes. I asked him, what time did you arrive at  
17 Toothie's house? His answer was, um, I would say 10  
18 something, ten and change, maybe ten. I asked him, how  
19 long did you stay there?

20 His answer, the first time I stayed there for  
21 like 15 or 20 minutes, no more than half an hour.

22 Q What did he do from there?

23 A He walked.

24 Q Just read what he says.

25 A Where did you go next?



1 Answer: I came back to 14th and Market.

2 Question: What time did you arrive back at  
3 14th and Market?

4 Answer: This is all before 11 because I didn't  
5 see Iris until 11 so this was all before 11.

6 Question: What time did you see Iris?

7 Answer: It was around 11.

8 Question: Where did you see her at?

9 Answer: She walked in the bar.

10 Question: Which bar?

11 Answer: Fav's.

12 Question: Did she say anything to you when she  
13 walked in?

14 Answer: Hi, hon.

15 Question: Did you conversate with Iris at  
16 Fav's bar?

17 Answer: Yes. I asked her why she wasn't  
18 answering the phone. Where was she at?

19 Question: How long did you conversate with her  
20 for?

21 Answer: It was real short, not even five  
22 minutes cause the bottom line was I told her I'm going  
23 in to the house, and it's cold out here and nobody  
24 driving. Then she said, she was like, she said that  
25 she was ready to go in the house too, and somebody

1 called her, one of her girlfriend and she went over  
2 there to talk with them.

3 Q Now, from -- he indicated some time around 11  
4 he sees her at the bar; is that correct?

5 A That's correct.

6 Q How long does he say it was before he lost  
7 track of her?

8 A How long it was what?

9 Q Where you just finished, could you read the  
10 next question?

11 A Did you lose track of Iris in the bar?

12 Answer: Yes.

13 Question: How long after she walked into Fav's  
14 bar was it until you lost track of her?

15 Answer: I would say five minutes, another five  
16 minutes, you know. She was in and out. It was quick.

17 Q Now, he indicates that he went to his home that  
18 he shared with Iris on a couple of occasions that  
19 night; is that correct?

20 A Correct.

21 Q Does he indicate any times? Do you recall who  
22 he went with? I think you mentioned that before.

23 A Calvin, which was a pizza delivery guy.

24 Q Do you recall if he gives a time with Calvin  
25 going back to his house?

1 A I recall around 2:00.

2 Q Would it be in the statement? It wasn't far  
3 from where we had just stopped. Does it indicate a  
4 time?

5 A He indicates it was around 12 something, 12,  
6 12:30, something when Calvin took me to the house, and  
7 I went and there was nobody there, and then I went  
8 again when, um, Horse drove me. This was around one  
9 something.

10 Q Now, then he -- a little bit further down you  
11 asked him a question, what was occurring on the 20th  
12 when he said he discovered Iris's body? Do you see  
13 where I'm referring to him being at the front door?

14 A Yes.

15 Q Did you ask him how many times he knocked on  
16 the front door?

17 A Yes.

18 Q What did he say?

19 A Five times loud.

20 Q What did you ask next?

21 A Did you yell for Iris? He responded, yes, when  
22 I was at the door, I knocked at the door, boom, boom,  
23 boom, and I kicked it one time at the bottom, not hard,  
24 yelled for Iris. I asked him, did you get any  
25 response? He responded no. I just smelled the smoke.

1 I knew it was coming from the house by that time  
2 because I already had stepped back and observed.

3 Q Okay. Now, I just wanted to go back to that  
4 first answer that you read to us towards the end of  
5 that answer where he's talking about being in the  
6 house.

7 MR. MULLER: Mr. McCormack, can you tell me  
8 where you are?

9 MR. McCORMACK: Page 6.

10 BY MR. McCORMACK:

11 Q Do you see the paragraph that starts, I pulled  
12 her legs?

13 A Yes.

14 Q If you go down a little bit the very last full  
15 sentence there, I ran out.

16 A Yes.

17 Q Could you read that again?

18 A I ran out the back door hollering for help and  
19 the next door neighbor was in the -- she was in her --  
20 out her back door and she was asking me, well, what's  
21 going on? Was there a fire?

22 Q Keep going.

23 A And at that same time her brother was running  
24 around the back to the back door and he asked -- he  
25 said, is that smoke? Is the house on fire? I said the

1 food was on fire, and I said, it's Iris, she's just  
2 laying there. She not moving.

3 Q You can stop there. So according to what he  
4 said he was at the back door and then he actually saw  
5 Zachary come running around to the back door?

6 A Yes.

7 Q From what he said here --

8 A Yes.

9 MR. McCORMACK: If I could just have one  
10 moment, Your Honor.

11 THE COURT: Yes.

12 BY MR. McCORMACK:

13 Q The person that you took this statement from,  
14 is the person in the courtroom here today and can you  
15 give us an article of clothing he might be wearing?

16 A Yes. He's seated by Defense counsel. He's  
17 wearing a gray vest, white dress shirt, glasses.

18 MR. McCORMACK: Let the record reflect he  
19 identified the Defendant.

20 THE COURT: Yes.

21 MR. McCORMACK: They are all the questions I  
22 have of Detective Taylor at this point.

## CROSS EXAMINATION

BY MR. MULLER:

Q Investigator Taylor, you indicated that you got there at 1232 hours?

A I was dispatched at 1232 hours, would have been, and I arrived at 12:32. That's what time I arrived.

Q A lot of people were on the scene at that point, correct?

A Yes.

Q You had a chance then to go into the apartment?

A Yes.

Q When you saw the victim on the floor, how was the sheet covering her?

A It was covering her from the waist down.

Q And what did you smell in the apartment?

A It smelled like burnt food.

Q And did you determine the source of the burnt food smell?

A Yes. It was either a burnt chicken or burnt turkey, I believe.

Q That was in the oven?

A Yes, which is located downstairs on the first floor. I was actually on the second floor, which is

1 the upper part of the house.

2 Q On top of the stove you noticed what else?

3 A Some food.

4 Q What kind of food?

5 A Stuffing in a pan.

6 Q Okay. Now, you spoke to Zachary Belcher and  
7 Socorro Roman?

8 A Yes.

9 Q And you did that around that time?

10 A I went through the house first. Then I was  
11 told to do a neighborhood canvass. That's where we go  
12 knock on doors and ask if anybody saw anything or heard  
13 anything. That's when I spoke to Zachary Belcher and  
14 his girlfriend. It was a few minutes after.

15 Q I understand. When you spoke to Ms. Roman,  
16 when did she tell you she had woken up that morning?

17 A She said she woke up about 6:00 a.m.

18 Q When did she go out in the backyard to clean  
19 the dog cages?

20 A 11:45 a.m.

21 Q Where was their area located in relation to  
22 Iris's apartment?

23 A Their home is located behind Iris's apartment,  
24 almost right behind -- McCleaster Street is here --  
25 (indicating) -- and their street is one block to the

1 south.

2 Q Directly behind or --

3 A Almost directly behind.

4 Q Was there a fence between where they were?

5 A There's a fence. There was a fence they had to  
6 look over to see her house, see part of her house.

7 Q Do you know how they got over to the house?

8 A He ran on foot.

9 Q But he didn't run -- he had --

10 A He had to run around the fence then to the back  
11 door.

12 Q More than just around the fence; he had to go  
13 out to Kensington and around?

14 A Yeah. He had to go around and then back into  
15 her back door.

16 Q According to her statement who got there first?  
17 Who got to Iris's house first, she or Zach?

18 A I would have to look at her statement to be a  
19 hundred percent certain.

20 Q I mean, is there any more -- there's an  
21 official statement from her or is it just your notes?

22 A In my notes; it's just a brief synopsis of what  
23 she said.

24 Q Okay. But you also have a statement from her?

25 A I believe there is one or it could have been



1 just what I have in here. Give me a second here.

2 Q Sure.

3 A He said he got their first.

4 Q Let me clarify. You were interviewing the two  
5 of them together?

6 A No, no. They were brought down to the station  
7 together. They were interviewed separately.

8 Q And he got there first?

9 A Yes, and then he --

10 Q Did he tell you what happened after that?

11 A He ran back out and he came back in with -- she  
12 came back in and went upstairs and saw Iris.

13 Q Well, something happened before that. He came  
14 running back to her house, correct?

15 THE COURT: He...

16 MR. MULLER: Mr. Love --

17 THE WITNESS: Who are you talking about? Are  
18 you talking about Mr. Belcher?

19 BY MR. MULLER:

20 Q Zach Belcher came running back to Socorro's  
21 house? Is that a fair summation? You state in the  
22 report Belcher came running in the house, that Iris's  
23 boyfriend was right behind Belcher.

24 A Yes.

25 Q And then she went over to the house, correct?

1 A Yes.

2 Q When you interviewed Tyshaunt -- the interview  
3 started at 4:03. When did you get down to the police  
4 station with him?

5 A The statement began at 4:03. He was taken from  
6 the scene by Detective Stilo and another individual and  
7 then taken down to the police station.

8 Q That doesn't answer my question. When did he  
9 get to the police station?

10 A I don't know.

11 Q When did you get to the police station?

12 A I know the statement started at 4:03. I'm not  
13 sure what time I got to the police station exactly.

14 Q You don't know how long he had been there?

15 A No.

16 Q Who was he with when you met him in the  
17 interview room?

18 A I think he was with Detective Stilo.

19 Q After you arrived how long were you with him  
20 before you started the interview?

21 A I was there probably 15, 20 minutes.

22 Q And who else was there with you in the room  
23 with Mr. Love?

24 A Detective Zimmerman.

25 Q Anyone else?

1 A And the secretary.

2 Q He was talkative?

3 A Very talkative.

4 Q Could you understand everything that he  
5 mumbled?

6 A I could understand. He was just repetitive at  
7 times.

8 Q You hadn't spoken to him before this?

9 A No.

10 Q When he was giving you this statement, the last  
11 couple of pages he tried to clarify some times and  
12 things but other than him saying that in Calvin's car  
13 he saw a clock and it was 12:30 or something like that,  
14 did you ask him how he was estimating the times or  
15 otherwise?

16 A I don't recall. He seemed -- when we talked to  
17 him he seemed -- I would ask him what time and he  
18 seemed to know. He just always had an answer for, you  
19 know, I was -- Calvin had a clock in his car or, you  
20 know, I was in the bar. The bar was still open. I  
21 know it was before 2.

22 Q But that's not an exact time. I'm asking other  
23 than the clock in Calvin's car, everything else was  
24 estimated?

25 A Yes.

1 Q Did anyone interview Calvin? Did anyone go to  
2 Calvin when you were the lead investigator in this?

3 A I believe Calvin was interviewed. I believe he  
4 was interviewed but he was interviewed by another  
5 detective. I'm not sure who.

6 Q Not by you?

7 A No.

8 Q Was the barmaid that you interviewed referred  
9 to on --

10 A I don't believe so. I think we just had a  
11 first name for her.

12 Q You had the name of the barmaid?

13 A Yeah. I'm not sure if she was interviewed or  
14 not.

15 Q The barmaid was named Lisa?

16 A Not to my knowledge if she was interviewed or  
17 not.

18 Q Did you -- at one point he told you I believe  
19 this was talking about Mike, since you driving take me  
20 by the Olympic on Derry Street so I can see if my girl  
21 is there. I went into the Olympic. I asked her  
22 friends, people that I know she knows, and also a  
23 person that works back there, a guy named Johnny, had  
24 they seen her.

25 Did you go to the Olympic and interview anyone?

1 A I didn't interview anyone at the Olympic.

2 Q Did anyone on your team since you were lead  
3 investigator, did any of them?

4 A I'm not sure if they did or not.

5 Q As lead investigator wouldn't you know if they  
6 have?

7 A Generally; I'm not aware if they did or not.

8 Q You have no record of Johnny, at the Olympic  
9 working there, being interviewed?

10 A No.

11 MR. MULLER: The Court's indulgence.

12 THE COURT: Granted.

13 BY MR. MULLER:

14 Q After you said he indicated to you that when he  
15 answered the door there was one paramedic and one black  
16 officer and she said who found the body or whatever.  
17 That's right before you took a break, right?

18 A He said there was one paramedic and one black  
19 officer and she said who found the body or whatever.

20 Q When you took that 10-minute break, what  
21 happened during the break, anything?

22 A I think he used the bathroom. We got him  
23 something to drink.

24 Q Mr. McCormack was asking you about going to  
25 Toothie's house and you had said he answered, that

1 he -- I'm sorry -- let me rephrase that question.

2 What time did you arrive at Toothie's house?

3 His answer to you, I would say ten something, ten and  
4 change, maybe ten. How long did you stay there? His  
5 answer, the first time I stayed there for like 15 or 20  
6 minutes. That's referring to when he went to Toothie,  
7 wherever she was at that time?

8 A The first time.

9 Q Not going back later.

10 A Right.

11 Q He told you he saw Iris in Fav's around 11:00  
12 and that he saw her there it looks like for ten  
13 minutes, correct, five minutes and another five  
14 minutes, correct?

15 A That's correct.

16 Q And you asked him if he left the bar with Iris  
17 and he said no?

18 A Correct.

19 Q When you asked him about knocking on the front  
20 door, did you have him demonstrate maybe on a table to  
21 determine what loud is to him?

22 A No.

23 Q In fact, it sounds like he knocked three times  
24 and then kicked it a couple of times; is that an  
25 accurate reading?

1       A     Let me see. He said he had knocked five times  
2 loud. I knocked at the door, boom, boom, boom, and I  
3 kicked it one time at the bottom, not hard, and yelled  
4 for Iris.

5       Q     When you took Tyshaunt in, we heard from  
6 Officer Muldrow about taking property from him at some  
7 point. Was a key recovered from him, an apartment key  
8 to your knowledge?

9       A     Not to my knowledge.

10           MR. MULLER: The Court's indulgence.

11 BY MR. MULLER:

12       Q     When you took Mr. Love to the police station,  
13 you met him at the scene too?

14       A     I didn't take him to the police station.

15       Q     You met him at the scene, correct?

16       A     I didn't talk to him at the scene.

17       Q     You saw him at the scene?

18       A     I saw him at the scene.

19       Q     And when you --

20       A     I went right in the house so I didn't --

21       Q     When you went -- when you saw him at the scene  
22 he was with another officer?

23       A     Correct.

24       Q     And when you met him down at the station around  
25 4:00, was he still wearing the same things?

1 A I believe so.

2 Q Did you look at his hands?

3 A I don't recall.

4 Q Well, you found a woman who's been beaten.

5 A I would like to think that we did. I just  
6 don't recall that part. So I don't want to give a  
7 false answer.

8 Q If you had seen bruises or scrapes or blood on  
9 him you would have noticed that, correct?

10 A I would have noted that.

11 Q It would have been noted in your report,  
12 correct?

13 A Yes.

14 Q And if he had blood on his clothing or shoes or  
15 face you would have noticed that?

16 A It would have been noted in my report or  
17 somebody else's report involved in the investigation.

18 Q And it's not noted in your report?

19 A No.

20 MR. MULLER: Thank you. That's all I have.

21 THE COURT: Any redirect, Mr. McCormack?

22 MR. McCORMACK: One thing, Your Honor.

23

24

25



## REDIRECT EXAMINATION

BY MR. McCORMACK:

Q On December 21, 1996, did you have an opportunity to speak to a man or actually observe a man by the name of LaQuan Williams?

MR. MULLER: Objection. Exceeding the scope of cross?

MR. McCORMACK: Your Honor -- he just asked these questions of the Defendant, observed bruises on the Defendant. I want to know if he observed any bruises or injuries on the alternate suspect that they have been suggesting during the course of the trial.

MR. MULLER: A day and a half later.

THE COURT: I don't know. No. 1, I don't recall a specific mention of that. No. 2, I don't recall mention of that individual's name at any time during either direct or cross examination. It's beyond the scope. Sustained.

BY MR. McCORMACK:

Q Mr. Muller asked you questions about various people, whether you talked to the barmaid, whether you talked to somebody that was at the bar, at the Olympic bar. The Defendant in his statement provided you with an alibi witness, Toothie; is that correct?

1 A Yes.

2 Q Did you speak to Toothie?

3 A Toothie was interviewed by Detective Duffin and  
4 Detective Baez.

5 MR. McCORMACK: I have no further questions.

6 MR. MULLER: I have nothing.

7 THE COURT: Thank you.

8 MR. McCORMACK: At this time I call Mike  
9 Maloney.

10 MR. MULLER: May we approach briefly?

11 THE COURT: Yes.

12 (A discussion is held at sidebar off the  
13 record.)

14

15 MICHAEL MALONEY,  
16 having been sworn, was examined and testified as  
17 follows:

18

19 DIRECT EXAMINATION

20

21 BY MR. McCORMACK:

22 Q Good afternoon. Could you please tell me your  
23 name?

24 A Michael Maloney, M-A-L-O-N-E-Y.

25 Q And by whom are you employed?

1       A     I'm a detective sergeant with the Dauphin  
2 County Criminal Investigation Division.

3       Q     And currently as detective sergeant you're one  
4 of the supervisors of the Criminal Investigation  
5 Division?

6       A     Yes, that's correct.

7       Q     Essentially who does the Criminal Investigation  
8 Division fall under?

9       A     The District Attorney's office.

10      Q     Now, on January 30, 1998 did you have an  
11 opportunity to speak with the Defendant in this case,  
12 Tyshaunt Love?

13      A     Yes, I did.

14      Q     And what were you speaking to him about?

15      A     About the homicide of Iris Fennel.

16      Q     And did he provide you with any information  
17 concerning the homicide of Iris Fennel?

18      A     Yes, he did.

19      Q     Did you prepare a report of some of the things  
20 that he told you concerning the homicide of Iris  
21 Fennel?

22      A     Yes, I did.

23      Q     And did he provide you any information  
24 concerning whether he knew there was a gun in Fennel's  
25 home?

1 A Yes, we spoke about that.

2 Q What did he tell you about that?

3 A He told me that he was not familiar of whether  
4 or not she had a gun in her house.

5 Q What other information did he tell you during  
6 the course of that interview?

7 A Several different aspects particularly about  
8 his whereabouts on the evening prior to when they found  
9 Iris Fennel's body up to and including that morning  
10 when they did find the body.

11 Q What did he tell you about the evening before  
12 December 19, 1996?

13 A He stated that a gentleman by the name of  
14 LaQuan Williams went to Iris Fennel's residence at that  
15 time and they arrived there, I think it was  
16 approximately 4:00. This was a day before Iris  
17 Fennel's body was found.

18 Q 4 a.m. or p.m.?

19 A I'm sorry, p.m.

20 Q What did he say he was doing with Williams and  
21 Fennel on that date and time?

22 A He said he -- when they arrived there they  
23 smoked marijuana, all three of them, and also that he  
24 bought an ounce of cocaine --

25 Q What's that called?

1 A An eight ball -- from Iris Fennel.

2 Q Did he say how much he bought that for?

3 A I believe -- let me check -- I believe it was  
4 \$70.

5 Q Did he indicate anything more about his desire  
6 to purchase more drugs that day?

7 A He mentioned that she had an entire ounce  
8 available but he already owed her money from past  
9 purchases of cocaine so he could not buy any more.

10 Q Did he say anything else?

11 A He said that, I believe it was around 6:00 two  
12 hours later that same evening, that he and LaQuan  
13 Williams left the residence at that time.

14 Q And did he tell you anything else?

15 A That he, I believe, that he tried to call a  
16 girl by the name of Toothie or Tootie, last name of  
17 Cruz, at that time, and he did not have a first name  
18 and when they left the residence he was kind of unclear  
19 the order of his actions, but at one time he had  
20 contacted Toothie/Cruz, and ended up at Fav's bar.

21 Q Did he mention anything about the possibility  
22 of moving out of the home of Fennel?

23 A Yes. He had mentioned that he had some bags  
24 packed and they were by one of the doors leaving the  
25 residence, but it was not because he was being thrown

1 out by Iris Fennel, but he was leaving. He was going  
2 to a different location to live with a gentleman by the  
3 name of pop-pop. It was a friend of his, but he was  
4 not sure about his given name.

5 Q The person you were speaking to on January 30,  
6 1998, is that person present in the courtroom?

7 A Yes, he is.

8 Q Could you point him out to us and tell us maybe  
9 an item of clothing he's wearing?

10 A He's the gentleman sitting with Defense counsel  
11 with the white dress shirt and the vest and the gray  
12 tie with the glasses.

13 MR. McCORMACK: May the record reflect he  
14 identified the Defendant.

15 THE COURT: Yes.

16 MR. McCORMACK: I have no further questions.

17 THE COURT: Cross.

18  
19 CROSS EXAMINATION

20  
21 BY MR. MULLER:

22 Q Did you record this interview?

23 A No, I did not.

24 Q When did you type up your report?

25 A I always type up my reports as soon as possible

1 depending on what we're doing at that time.

2 Q And this case, when did you type up the report?

3 A As soon as possible; I don't know the exact  
4 moment. It was back in -- several years ago.

5 Q I understand that. But as soon as possible  
6 could mean if something else intervenes it's going to  
7 be later than that, right?

8 A Whenever we were done with our interviews,  
9 after that.

10 Q And it was after Mr. Love had left?

11 A Yes.

12 Q So you never had him review anything that you  
13 talked about in that interview?

14 A No, I did not.

15 Q And when you talked you referred to him saying  
16 that Iris had an ounce of cocaine. Was there any  
17 indication if Kazar also knew this when he was there?

18 A I'm not aware of that.

19 THE COURT: Do you know who Kazar is?

20 MR. MULLER: I'm sorry; LaQuan Williams.

21 THE WITNESS: Yes.

22 THE COURT: Thanks.

23 BY MR. MULLER:

24 Q But according to Mr. Love's statement, LaQuan  
25 Williams was with him when he bought this cocaine from

1 Iris, right?

2 A He was at the location, yes.

3 Q When you referred to him as -- December 19 --  
4 let me put it this way, in that statement you took from  
5 him, who gave the date of December 19th? I mean, did  
6 he say to you we were at her house at 1600 hours on  
7 December 19, 1996? I'm assuming that's what you put  
8 down.

9 A Based on what he had told me, yes.

10 Q Were you talking about the 19th or was he  
11 talking about the 19th as a specific date? I mean, did  
12 he tell you December 19th?

13 A We talked about in reference to the date prior  
14 to him finding the body of Iris Fennel.

15 Q According to this, he told you he was looking  
16 for a room at pop-pop's house, not leaving Iris?

17 A That's correct.

18 Q Did you -- you didn't ask him what he meant by  
19 that?

20 A I don't think I understand.

21 Q His bags were packed because he was looking for  
22 a room at pop-pop's house not because he was leaving  
23 Fennel.

24 A Yes, that's what he said.

25 Q Did you follow up on that? I mean, he's



1 looking for a room to hang out at when he's not leaving  
2 Iris?

3 A He was just stating it.

4 THE COURT: So you didn't follow up?

5 THE WITNESS: That's correct.

6 MR. MULLER: That's all I have.

7 THE COURT: Redirect?

8 MR. McCORMACK: No further questions.

9 THE COURT: Thank you. You may step down.

10 MR. McCORMACK: Could we approach?

11 THE COURT: While we talk, ladies and  
12 gentlemen, we're going to take a break here. Leave the  
13 envelopes on the chair. Don't talk about this case or  
14 any of the evidence.

15 (The jury exited the courtroom at 2:52 p.m.)

16 MR. McCORMACK: I want to indicate to the Court  
17 my next evidence seeks to introduce the transcript  
18 testimony of Guillermina Cruz. Logistically I propose  
19 I would read questions that I asked and I would have  
20 Jason from my office to read Guillermina's answers. I  
21 don't know if you wish --

22 MR. MULLER: I think we need to go through it a  
23 little to mark the areas that aren't going to be read.  
24 I mean, would you agree there are certain areas?

25 MR. McCORMACK: Over the break we can sit down

1 and figure out what areas we're not going to do.

2 THE COURT: Let me --

3 MR. MULLER: How is this going to be presented,  
4 by the way, to the jury?

5 MR. McCORMACK: Are you going to say anything  
6 to them?

7 THE COURT: Yes. I think in order to keep --  
8 and somewhat sanitized of any detail, do either of you  
9 have any suggestions what you would like me to include  
10 in our introductory comment? All right.

11 (A brief recess is taken from 2:54 p.m. to  
12 3:15 p.m.)

13 THE COURT: Gentlemen, what is it you need to  
14 address before we bring the jury in the room?

15 MR. McCORMACK: We have agreed -- can we just  
16 approach?

17 THE COURT: Don't you want this on the record.

18 MR. McCORMACK: We've agreed as to what  
19 sections are going to be read and we also agreed that I  
20 am going to read the questions I asked at the  
21 preliminary hearing back on March 5, 2002. Mr. McMurry  
22 is going to read Guillermina Cruz's answers and  
23 Mr. Muller is going to read those portions that were  
24 asked by Defense counsel at that time, Monty Batson.  
25 We have agreed to take out court objections, the

1 objections that were made. If they were -- essentially  
2 if the witness was allowed to answer the question the  
3 objection portion is gone but the answer, the fact they  
4 are allowed to answer that stays in, and any of the  
5 legal argument that was going on we omitted.

6 MR. MULLER: We cleaned it up to the testimony  
7 only.

8 MR. McCORMACK: The only other difficult  
9 portion, she was asked to draw on a blackboard during  
10 that portion. We are going to indicate that she was  
11 drawing during that time period, not really going into  
12 where was this, where was that.

13 THE COURT: The answers do not provide much  
14 guidance, I presume.

15 MR. MULLER: Where was the stove? Here. Where  
16 was the refrigerator? We're going to skip that part.  
17 I'm not sure whether you want --

18 THE COURT: You don't want to say anything to  
19 the jury, just skip over that part?

20 MR. McCORMACK: There were some answers that  
21 you wanted with that.

22 MR. MULLER: I think the way we redacted it, it  
23 will still flow. It's not going to be like a jump or  
24 anything. It may seem stilted. I don't think it will  
25 be confusing.

1 MR. McCORMACK: As it concerns what you would  
2 say to the jury, I'm not sure whether you want to say  
3 that she's not here and, therefore, you've made an --  
4 or that you've declared her legally unavailable.

5 THE COURT: I don't intend to go into all that.  
6 I will just say, she's unavailable to testify, and I've  
7 ruled that you're permitted to read this testimony into  
8 the record.

9 MR. MULLER: I certainly intend to put in my  
10 closing that she failed to show up. She bolted instead  
11 of testifying here.

12 THE COURT: I don't think that's -- I'll make  
13 mention she failed to appear despite being subpoenaed  
14 and in our words, unavailable. You can make reference  
15 to that although I don't know what's in the testimony  
16 that they will ultimately hear that allows you to  
17 expound upon that.

18 MR. MULLER: I think the jury should know she  
19 was subpoenaed.

20 THE COURT: And she's not here.

21 MR. MULLER: She's refused to come to court.

22 MR. McCORMACK: I wouldn't use the term bolted.

23 THE COURT: We won't use the term bolted.

24 MR. MULLER: Can we just -- something brief  
25 here off the record.

1 (A discussion is held at sidebar off the  
2 record.)

3 (The jury entered the courtroom at 3:20 p.m.)

4 THE COURT: Ladies and gentlemen, at this point  
5 in the proceeding the Commonwealth, I think it was  
6 mentioned in the opening statements, that there is a  
7 witness -- correct me, counsel, if I refer to this  
8 person incorrectly -- her name is Guillermina Cruz,  
9 sometimes referred to as Toothie or Tootie in some of  
10 the other testimony. There was mention early on she  
11 was expected to be a witness in this case. She was in  
12 fact subpoenaed to be a witness in this case. She has  
13 failed to appear apparently, as I think someone had  
14 mentioned, reluctant to testify. Under that  
15 circumstance she is for our purposes unavailable to  
16 testify and I've ruled that certain testimony that she  
17 had given in earlier proceedings, in an earlier hearing  
18 in this matter, I believe March 5, 2002 -- correct on  
19 the date?

20 MR. McCORMACK: That's correct, Your Honor.

21 THE COURT: That can be introduced at this  
22 trial. You should listen carefully to this testimony.  
23 The way this will be done is, Mr. McCormack will -- I  
24 don't know if you were or were not the attorney for the  
25 Commonwealth at this proceeding -- but he will be

1 reading those questions and an assistant from the  
2 District Attorney's office will be reading the answers  
3 that were given by Ms. Cruz at that proceeding, and the  
4 attorney, Mr. Muller, will read the questions or  
5 comments that may have been made during that proceeding  
6 by Defense counsel at the time.

7 Is there anything else that I need to address  
8 before this is done?

9 MR. MULLER: No, Your Honor.

10 MR. McCORMACK: No, Your Honor.

11 THE COURT: Please proceed. Everyone reading  
12 is cautioned, we have a tendency to read more quickly  
13 than we speak. It makes it much more difficult for my  
14 court reporter and for her sake, please read slowly and  
15 carefully.

16

17

18 BY MR. McCORMACK:

19 Q Guillermina, I need you to state your.  
20 name for the record.

21 A Guillermina Cruz.

22 Q What I need you to do is, you have a  
23 microphone there. Try to make sure you  
24 speak right into the microphone so we can  
25 all hear what you have to say so you don't

1                   have to keep repeating yourself. Can you  
2                   spell your first name for us?

3           A     G-U-I-L-L-E-R-M-I-N-A.

4           Q     And how do you spell your last name?

5           A     C-R-U-Z.

6           Q     How old are you?

7           A     Twenty-one.

8           Q     Do you know why you're here in court  
9                   today?

10          A     Yes.

11          Q     I want to take you back to December 1996.  
12                And at that time did you know the person  
13                sitting across the courtroom from you?

14          A     Yes.

15          Q     How did you know him?

16          A     I seen him around. He used to go with my  
17                friends.

18          Q     You knew him before December 1996?

19          A     Yes.

20          Q     How well did you know him?

21          A     Not all that good.

22          Q     Did you know him by any name? What name  
23                did you know him by?

24          A     Cuzzo.

25          Q     On December 19th, this is the day before

1 Iris is found dead in her home. Did you  
2 have an opportunity to see Cuzzo?

3 A Yes.

4 Q Where did you see him?

5 A Seen him at the chinese restaurant on  
6 Market Street.

7 Q Are we talking about the daytime?  
8 nighttime? morning? When are we talking  
9 about?

10 A In the evening.

11 Q Did you talk with him there?

12 A No. We walked to my grandmom's house. We  
13 talked there.

14 Q When you walked to your grandmom's house  
15 and you talked there, what did you talk  
16 about?

17 A I don't know. We was just talking, you  
18 know. He was talking about his  
19 girlfriend.

20 Q Did you know who his girlfriend was?

21 A Iris.

22 Q Did you know her by the name of Iris or  
23 did you -- how did you know her?

24 A Just that's what I knew her by.

25 Q Iris?



1 A Right.

2 Q And when he was talking about his  
3 girlfriend, was he talking good about her  
4 or bad about her?

5 A He was saying that she was getting on his  
6 nerves and he was just stating that, you  
7 know, she was getting on his nerves, that  
8 he needed to get out of her house already  
9 and they were always arguing.

10 Q When the two of you walked from -- I think  
11 you said the chinese restaurant --

12 A Yes.

13 Q -- to your grandmom's house, is that the  
14 last time you saw him that night?

15 A No.

16 Q Did he stay with you at your grandmom's  
17 house or what happened next?

18 A I had paged him after I was done eating  
19 with my grandmom and he came by and picked  
20 me up.

21 Q How long do you think went by from you  
22 talking to him at your grandmom's to when  
23 you said he paged you?

24 A I paged.

25 Q You paged him?

1 A Um-hum.

2 Q Why did you page him?

3 A We just -- he just told me to page him so  
4 we could hook up.

5 Q What time do you think -- you said before  
6 it was kind of evening when you walked to  
7 your grandmom's house. What time do you  
8 think it is now?

9 A Like 10:30.

10 Q And does he come pick you up?

11 A Yes.

12 Q Where did you go?

13 A He told me it was his uncle's house on  
14 Balm Street.

15 Q Do you know whether it was his uncle's or  
16 not?

17 A No.

18 Q So when you're at his uncle's house who  
19 are the people inside the house? Can you  
20 name everybody including yourself that  
21 were there?

22 A Me, Cuzzo, there was a guy and a lady. I  
23 really don't know who all was in the house  
24 at that time -- at the time.

25 Q There was possibly a guy and a lady

1                    somewhere else in the house though?

2            A     Yeah.

3            Q     Are you sure about that?

4            A     Yes.

5            Q     Now, what did you do at that house?

6            A     We talked, watched movies.

7            Q     Anything else happen?

8            A     No.

9            Q     If there's any point you don't understand  
10                   my questions, just let me know. Was there  
11                   any point that you and Tyshaunt got  
12                   intimate? Do you understand what I'm  
13                   asking about?

14           A     Yeah. We kissed.

15           Q     Was there anything else that happened?

16           A     No.

17           Q     Do you stay there a couple of hours or how  
18                   long do you stay there?

19           A     Stayed there the whole night.

20           Q     And are you awake talking the whole night  
21                   or what are you doing?

22           A     Fell asleep watching a movie; he was  
23                   upstairs with the people who lived there.

24           Q     I'm having a hard time --

25           A     I was there. I fell asleep watching a

1 movie and he was upstairs with the people.

2 Q When you say he, who do you mean?

3 A Cuzzo.

4 Q Where are you sleeping at? You said you  
5 fell asleep downstairs.

6 A On the couch.

7 Q And this is all still on Balm Street?

8 A Yes.

9 Q Do you remember what happened next?

10 A He had asked me -- he needed help getting  
11 his bags from her house.

12 Q Whose house?

13 A Iris's.

14 Q So he asked you that. When did he ask you  
15 that? Had he asked you that earlier or  
16 what time, if you remember?

17 A I don't remember.

18 Q Do you remember waking up that day?

19 A Yes.

20 Q I know you may not know the exact time,  
21 but around what time of day do you think  
22 you were waking up?

23 A Early in the morning; we seen kids walking  
24 to school that morning.

25 Q When did you see kids walking to school?

1 A When we left the house.

2 Q So when you left the house, you saw some  
3 kids walking to school. All right. Where  
4 do you guys go from Balm Street?

5 A To Iris's house.

6 Q Who is with you as -- as you go from Balm  
7 Street to Iris's house?

8 A Cuzzo.

9 Q When you get to Iris's house do you  
10 remember where you were -- pardon me --  
11 where you went in or did you ever go in  
12 Iris house? Let's start there.

13 A Yes.

14 Q Did you find anything when you went in  
15 Iris's house?

16 A Anything as in?

17 Q Did you find any people inside the house?

18 A She was in there.

19 Q What room are you in when you see her?

20 A The kitchen.

21 Q Did she say anything to you or Cuzzo when  
22 she's in the kitchen and sees you come in?

23 A No.

24 Q Does Cuzzo say anything?

25 A I don't remember.

1 Q What happened next?

2 A They started arguing.

3 Q Do you remember what they were arguing  
4 about?

5 A No.

6 Q Was it just a verbal argument where the  
7 two of them were talking to each other?  
8 Are they screaming? Is there violence  
9 involved? What kind of argument are we  
10 talking about?

11 A He was hitting her.

12 Q What part of his body is hitting her?

13 A His fists.

14 Q What part of her body is being hit?

15 A Her face.

16 Q What happened next as this argument  
17 starts?

18 A Go to the stove and the drawer in the  
19 bottom and get a gun out.

20 Q Who gets the gun out?

21 A Cuzzo.

22 Q Let me ask you, before Cuzzo goes and gets  
23 the gun out, had you and Iris had any  
24 words?

25 A I don't remember.

1 Q Did you and Iris have any contact with one  
2 another?

3 A Yes.

4 Q What was that physical contact?

5 A She came towards me when we first walked  
6 in the house and I smacked her.

7 Q Where I interrupted you entering, you had  
8 just said that Cuzzo was trying to get I  
9 think you said a gun out of a drawer by  
10 the stove or part of the stove. Where was  
11 Iris when he was getting the gun out?

12 A By him.

13 Q Was she standing by herself or were the  
14 two of them touching?

15 A By her hair.

16 Q He had her -- had her by her hair I think  
17 you just said; is that right?

18 A Yes.

19 Q What happened next?

20 A He dragged her upstairs.

21 Q I asked you what happened after he got the  
22 gun out and had her by the hair and you  
23 started to say -- you started to talk  
24 about the stairs. What happened with the  
25 stairs?

1 A He dragged her upstairs.

2 Q And where are you as he's dragging her  
3 upstairs?

4 A In the kitchen.

5 Q When they get upstairs can you see them  
6 any more?

7 A No.

8 Q Can you hear them?

9 A Arguing.

10 Q Can you tell what they were arguing about?  
11 Can you hear any words that are being  
12 said?

13 A She was just asking him to leave her  
14 alone.

15 Q And was he saying anything?

16 A No, not that I remember.

17 Q You had described downstairs a physical  
18 argument. Can you tell from where you're  
19 at in the kitchen if that physical  
20 argument continued when they got upstairs?

21 A I didn't understand your question.

22 Q You talked about a fight in the kitchen.  
23 From standing downstairs could you hear  
24 any type of fighting going on upstairs  
25 besides the words?



1 A Not really; I just hear them arguing.

2 Q Could you hear if Cuzzo wanted anything?

3 A He was asking for something.

4 Q But you don't know what it is?

5 A No.

6 Q What happens next? What do you hear next?

7 A I heard a gunshot.

8 Q After you hear the gunshot what do you  
9 hear?

10 A A big thump on the ceiling.

11 Q What did you do when you hear the gunshot?

12 A Go up the steps to see what happened.

13 Q What did you see as go up the steps?

14 A See him holding a gun and shooting again.

15 Q Who did you see holding the gun?

16 A Cuzzo.

17 Q I think you just said you saw him shooting  
18 again?

19 A Yes.

20 Q What direction was he shooting in?

21 A Towards the floor.

22 Q Could you see from where you were standing  
23 on the stairs could you see Iris?

24 A No.

25 Q After you see him -- let me ask you this,

1 when you come into the house you see Iris  
2 downstairs and you see -- pardon me -- and  
3 you and Cuzzo come into the house. At  
4 some point in time did you learn if  
5 there's anybody else in that house?  
6 Do you see anybody else in the house?

7 A I hear somebody else in the house.

8 Q Where did you hear that person?

9 A When I first came in I hear him in the  
10 living room.

11 Q When you go up those stairs and you see  
12 Cuzzo firing the gun, do you see anybody  
13 else up there?

14 A I see somebody else leaving the room.

15 Q Do you know who that person was? Do you  
16 remember?

17 A Kazar.

18 Q What did you do when you go up those  
19 stairs? You see the second gunshot. What  
20 do you do next?

21 A I ran out of the house.

22 MR. McCORMACK: Those are all the questions I  
23 have at this time.

24 BY MR. BATSON:

25 Q Miss Cruz, you say on the 19th you met up

1 with my client at the chinese restaurant.  
2 What time was that about?

3 A I don't remember what time it was.

4 Q Was it daytime? nighttime? in the  
5 afternoon?

6 A It was in the evening.

7 Q Was it before 12 or before 10?

8 A Before 10.

9 Q Was it after 6?

10 A I'm not sure of the time.

11 Q Now, you said prior to you meeting him at  
12 this chinese restaurant, you didn't know  
13 him that well; is that right?

14 A I mean, he used to date one of my friends  
15 but --

16 Q Did you ever hang out with him prior to  
17 that evening?

18 A No.

19 Q Did you ever go over to his house prior to  
20 that evening?

21 A I went over to his house one time with  
22 Leslie.

23 Q Did you ever have sex with him prior to  
24 the evening?

25 A No.

1 Q So that evening you see him at the chinese  
2 restaurant and you don't say anything to  
3 each other; you just walk to your  
4 grandmother's house?

5 A We was talking, but I don't remember what  
6 we were talking about.

7 Q Was it a general hi, how you doing kind of  
8 conversation?

9 A Yes.

10 Q Now, since you never hung out with him  
11 before, what was the reason that you guys  
12 went to your grandmother's house together?

13 A We was just talking, you know. I guess he  
14 was interested in me. I'm not sure.

15 Q You were interested in him?

16 A Not really, no.

17 Q So you just --

18 A Well, it wasn't my house. We was on the  
19 porch.

20 Q So you took somebody you weren't  
21 interested in to your grandmother's house  
22 even though you had a boyfriend?

23 A Yes. Nothing wrong with conversating with  
24 a person.

25 Q Okay. When you get to your grandmother's

1 house, how long does it take you to get to  
2 your grandmother's house from the chinese  
3 restaurant?

4 A Like five minutes.

5 Q Is your grandmother there when you get  
6 there?

7 A My grandmother was in the house.

8 Q Did you talk to her when you get there?

9 A No.

10 Q Do you introduce my client to your  
11 grandmother?

12 A No.

13 Q Did he ever go in the house?

14 A No.

15 Q He sits out on the porch?

16 A Um-hum.

17 Q Now, this is December 19th. So is it cold  
18 outside?

19 A Yes.

20 Q So you guys are sitting outside in the  
21 cold with a person that you never really  
22 hung out with before?

23 A Yes.

24 Q How long did you sit outside?

25 A Not long.

1 Q Now, you're sitting outside in the cold.  
2 Do you remember what you guys were talking  
3 about?

4 A He was telling me how Iris was getting on  
5 his nerves.

6 Q So you never hung out with him and he  
7 starts to confide in you with problems  
8 he's having with his girlfriend?

9 A Yes.

10 Q Did you even know who Iris was?

11 A I seen her before.

12 Q How did you know who she was?

13 A Somebody pointed her out to me before.

14 Q And you knew that was the same person he  
15 was talking about when he said my  
16 girlfriend Iris?

17 A Yes.

18 Q Now, when you're there at the house he  
19 confides in you that he's having problems  
20 with his girlfriend and then what else  
21 happens?

22 A He gave me his pager number.

23 Q And then does he leave?

24 A Yes. He told me to page him whenever I  
25 was done at my grandmom's.

1 Q You did page him. How long after he left  
2 did you page him?

3 A Like an hour, two hours later.

4 Q So now you page somebody who you didn't  
5 know up to this point but a hi-and-bye  
6 relationship and you paged him back  
7 anyway. Why did you do that?

8 A I'm not sure.

9 Q You said you had a boyfriend at this time,  
10 right?

11 A Yes, I did.

12 Q Now, when you page him do you page him  
13 from your grandmother's house or somewhere  
14 else?

15 A My grandmother's.

16 Q Up to that point had he ever been over to  
17 your grandmother's house before?

18 A No.

19 Q So you page him and then what did you talk  
20 about when you page him?

21 A I don't remember what we was talking  
22 about. I know he said he was coming to  
23 get me.

24 Q Did you ask why he was coming to get you?

25 A No.

1 Q When he gets back to the house, what do  
2 you guys talk about then?

3 A Just -- I don't remember what we was  
4 talking about.

5 Q So you don't know what you're talking  
6 about. How is it that you leave the house  
7 then?

8 A I couldn't tell you.

9 Q So now you leave with a person you never  
10 hung out with and you follow him down the  
11 street; is that right?

12 A Is that what?

13 Q I said, you leave the house with somebody  
14 who you've never hung out with before  
15 December 19th, it's cold outside and you  
16 follow him anyway?

17 A Yeah.

18 Q And where do you guys go?

19 A To a house on Balm Street.

20 Q Had you ever been to Balm Street before at  
21 this house?

22 A No.

23 Q You go into the house with my client?

24 A Yes.

25 Q What's the purpose of going there for?



1 A We was watching movies and stuff.

2 Q Did you have a VCR at your grandmother's  
3 house?

4 A Yes, I did.

5 Q Did you go get the movies?

6 A We was watching movies on the TV.

7 Q Now, did you ever meet the guy and the  
8 lady that you said lived there? Did you  
9 ever meet them?

10 A The guy came and got us at my house.

11 Q Came and picked you up?

12 A Um-hum.

13 Q So you never walked to Balm Street?

14 A No.

15 Q Somebody came to pick you up. What kind  
16 of car did he have?

17 A I don't remember.

18 Q Was it a big car? little car?

19 A I don't remember.

20 Q You may not remember the type of car but  
21 can you remember --

22 A It was a blue car.

23 Q Did you get in the front seat? back seat?

24 A Back seat.

25 Q Who else was in the car besides you and

1 the driver and my client?

2 A Nobody.

3 Q Did you say anything to that guy?

4 A He introduced me to him.

5 Q Now you go. You drive with this person  
6 you don't know along with the person you  
7 just really met and you go to a house  
8 you've never been to and you go and watch  
9 movies. How long are you watching the  
10 movies for?

11 A Couple of hours.

12 Q Do you eat anything or anything like that?

13 A No.

14 Q Where does the guy go that brought you to  
15 the house?

16 A Upstairs.

17 Q And that's the last you see him?

18 A Yes.

19 Q While he's upstairs and you guys are  
20 watching movies, at what point did you  
21 have sex?

22 A We didn't have sex.

23 Q You never had sex with him?

24 A Nope.

25 Q You spent the night there?

1 A Yes.

2 Q Where did you sleep at?

3 A On the couch.

4 Q Where did he sleep at, he being my client?

5 A I don't remember. I know I fell asleep on  
6 the couch.

7 Q Did you ask to go home?

8 A No.

9 Q You didn't have a problem with sleeping in  
10 a strange place?

11 A I couldn't go back to my grandmother's  
12 house at that time of night.

13 Q Do you know what time you left your  
14 grandmother's house?

15 A I say it was like 10:30, 11:00.

16 Q And you couldn't go back why?

17 A Because I didn't want to wake my grandmom  
18 up, plus I didn't live with my grandmom.

19 Q All right. Now, you wake up the next  
20 morning; is that right?

21 A Yes.

22 Q So you slept the whole night and you don't  
23 know where my client is after you fell  
24 asleep?

25 A No.

1 Q Now, the next morning when you get up what  
2 do you guys do then?

3 A We get up and walk.

4 Q What day is this now?

5 A I don't remember what day this was.

6 Q You don't remember if it was a Saturday,  
7 Sunday, Monday, anything like that?

8 A Nope.

9 Q You said you saw kids going to school?

10 A That doesn't mean I know what day it was.  
11 That was back in 1996. I was only 16.

12 Q Were you in school at that time?

13 A Yes.

14 Q Did you have to go to school that day?

15 A Basically, I didn't do what I was supposed  
16 to do. I was 16. I did what I wanted.  
17 My mom was in jail. I did what I wanted  
18 to do.

19 Q Do you know whether you were supposed to  
20 go to school and skipped?

21 A No.

22 Q You get up in the morning. What does he  
23 say to you when you get up?

24 A He asked me to help him go get some bags.

25 Q Now, not only do you spend the night over

1           there, you figured you're going to --  
2           you're going to be also helpful and go  
3           help him carry his bags somewhere else,  
4           right?

5           A    Yes.

6           Q    You don't have a car, right?

7           A    Obviously if I'm walking.

8           Q    So what were you going to do with the  
9           bags?

10          A    I was going to help him carry it.  He said  
11          it was too book bags.

12          Q    You didn't ask him to have the person who  
13          drove you there have him drive him there  
14          to pick up the bags?

15          A    No.

16          Q    And you had nothing else better to do that  
17          day so you wanted to help him out; you're  
18          just being nice?

19          A    Yes.

20          Q    Now, you say you wake up early in the  
21          morning.  Is this before 10 in the  
22          morning, 9 in the morning?

23          A    I don't remember the time.

24          Q    Was it close to the afternoon?

25          A    It was in the morning, you know.  If kids

1           were walking to school that's telling you  
2           it was early in the morning.

3           Q    I understand that.  Now, you get to the  
4           house.  And how do you go into the house?

5           A    How do we go in the house?  We went to the  
6           back door.

7           Q    Through the back door?

8           A    Yes.

9           Q    When you go in the back door what do you  
10          see?

11          A    He goes in and I seen --

12          Q    As a matter of fact, can you do me a  
13          favor?  We have a chalkboard right there.  
14          Draw us a diagram of what the house looked  
15          like?

16          A    Nope.  I'm not drawing it.

17

18

19               MR. MULLER:  Your Honor, I think we agreed at  
20   that time at the preliminary hearing she eventually  
21   went up and drew something on the chalkboard.

22

23

24               Answer:  Okay.  I don't know how to draw.  What  
25               am I supposed to do.

1  
2 MR. MULLER: I'm sorry. That is where she  
3 would have gone to the board and started to draw.  
4

5  
6 BY MR. BATSON:

7 Q Where are the steps at in relation to that  
8 door?

9 A (Witness complies.)  
10

11  
12 MR. MULLER: Line 15 page 28. Do you see where  
13 I'm at?

14 MR. McMURRY: Yes.  
15

16  
17 BY MR. BATSON:

18 Q So the steps are next to the stove; is  
19 that correct?

20 A (Witness shook head.) Yes, it's almost by  
21 the stove.

22 Q It's by the stove. Was there anything  
23 else in that kitchen besides the stove and  
24 the steps? Was there any tables or  
25 anything like that in that kitchen?

1 A There's a table.

2 Q There was a table. Was it in the middle  
3 of the kitchen?

4 A (Witness complies.)

5 Q Now, when you go into the house, where do  
6 you see Iris at in relation to when you  
7 walk in that house? We have where the  
8 stove is. We have where the steps are.  
9 Where is Iris at?

10 A She's by the stove cooking something. I  
11 think she was cooking something.

12 Q She's cooking something. And you say when  
13 you go into the house who goes in first,  
14 you or my client?

15 A Your client.

16 Q And when you get into the house, does he  
17 introduce you to Iris at that time?

18 A Are you done with the sketch?

19 Q No, because I have more questions to ask  
20 you. Actually, you can take a seat right  
21 now. I'll direct you back there when I  
22 ask you about the upstairs. When you go  
23 into the kitchen, do you see Iris by the  
24 stove cooking something?

25 A Yes.



1 Q Now, because it's early in the morning, do  
2 you know if she's making breakfast?

3 A I don't know what she's making.

4 Q You don't recall smelling anything?

5 A No.

6 Q How do you know she was cooking something?

7 A Because I seen her by the kitchen by a pot  
8 by the stove.

9 Q Did you see food on the stove?

10 A There was a pot on the stove. She was by  
11 the stove by the pots.

12 Q That's the only thing you saw just a pot?

13 A That's the only thing I remember.

14 Q Now, when my client goes into the kitchen  
15 you're behind him I'm assuming; is that  
16 correct?

17 A Yes.

18 Q And you say that you don't have a  
19 conversation with Iris, right?

20 A No.

21 Q My client doesn't have a conversation with  
22 Iris?

23 A He was arguing with her.

24 Q He was arguing with her. As soon as you  
25 walked in the door she started arguing?

1 A No. She said something to him and they  
2 started arguing.

3 Q You say that you go over and slap her,  
4 right?

5 A She looked like she was coming towards me.

6 Q She didn't say anything to you. You just  
7 went and slapped her?

8 A I just told you she looked like she was  
9 coming towards me to attack me so I  
10 smacked her, you know.

11 Q What did she do?

12 A She just was coming at me.

13 Q I mean, after you slapped her, what does  
14 she do? Does she just stop and go back to  
15 the stove?

16 A She was coming towards me still.

17 Q After you smacked her the first time she  
18 was still coming towards you?

19 A Yes.

20 Q Were you trying to defend yourself?

21 A Yes, I tried to defend myself.

22 Q And then what happened next?

23 A He grabbed her and started hitting her.

24 Q What was he hitting her with, his hands?

25 A His fists, his hands.

1 Q Was he saying anything to her?

2 A I don't remember what they were saying.

3 Q Now, there a reason why you didn't leave  
4 at this point?

5 A No.

6 Q You wanted to still be nice and help him  
7 carry the bags out?

8 A I don't know why I didn't leave.

9 Q Had you had a problem with Iris prior to  
10 this?

11 A I didn't know Iris prior to this.

12 Q Who is Black?

13 A That's my boyfriend at the time.

14 Q Did you know your boyfriend was sleeping  
15 with Iris?

16 A No.

17 Q You were never told that?

18 A I heard rumors.

19 Q Do you remember giving a statement to the  
20 police --

21 A Yes.

22 Q -- back on December 28th of 1996?

23 A Yep.

24 Q And do you remember in that statement  
25 telling the police that there was a

1 conversation with Iris; she telling you  
2 that she was with your kid's father,  
3 Black? Do you recall that?

4 A No.

5 Q Now, you said you don't recall Iris ever  
6 telling you that she was sleeping with  
7 your boyfriend, Black; is that right?

8 A Yes.

9 Q I'm sorry. I didn't hear you.

10 A Yes.

11 MR. McCORMACK: Judge, may I approach the  
12 witness? I'm going to show  
13 the Commonwealth this is a  
14 statement, December 28, 1996,  
15 question and answer in  
16 reference to Black.

17 BY MR. BATSON:

18 Q I want you to read right here. It's on  
19 page 4. It's a voluntary statement that  
20 you gave back on December 28, 1996 at 1645  
21 hours, Incident No. 1996-12-07255. I want  
22 you to start right here. The question is,  
23 once you were inside the house what  
24 occurred then?

1 MR. MULLER: I'm sorry. The Court's  
2 indulgence. Go to page 36.

3  
4  
5 BY MR. BATSON:

6 Q Right after that where the question is  
7 here's the answer. Read that to yourself.  
8 Do you see what I've indicated?

9 A I see.

10 Q The Commonwealth said that they stipulated  
11 and what they've stipulated to was the  
12 question was asked once you were inside  
13 the house what occurred then. Her answer  
14 was she asked me if I was Black's  
15 girlfriend and I told her yes, and she  
16 said that she wanted me to know that her  
17 and Black were together for a little  
18 while. That was all. And then Cuzzo  
19 started asking her why does it matter to  
20 her. In parenthesis it has Iris period.  
21 Are you saying you don't recall giving  
22 that statement?

23 A No.

24 Q Now, after you heard that statement and  
25 read it and heard me read it, does that

1 refresh your recollection now about the  
2 statement?

3 A Not really.

4 Q Now, after my client starts hitting Iris,  
5 what do you do while you're in the  
6 kitchen?

7 A Just sitting there.

8 Q You don't jump into the fight?

9 A No.

10 Q You don't do anything. You just watch  
11 what's going on?

12 A Basically.

13 Q And then you say he goes to the stove to  
14 get the weapon; is that right?

15 A Yes.

16 Q What is Iris doing while all this is  
17 happening?

18 A She can't do nothing. He got her grabbed  
19 up by the hair.

20 Q So he grabbed her while she was by the  
21 stove and grabbed the weapon by the stove;  
22 is that your testimony?

23 A He dragged her by the stove with him.

24 Q And is she fighting him? Is she doing  
25 anything?

1 A She tries.

2 Q Is she scratching him? punching him?  
3 What's she doing?

4 A She tries to hit him and stuff.

5 Q Once? Twice? What is she doing?

6 A I don't know how many times.

7 Q Was it more than once?

8 A Yeah, it was more than once.

9 Q What about more than twice?

10 A I think so too.

11

12

13 MR. MULLER: We're at the top of the next page.

14

15

16 BY MR. BATSON:

17 Q After he grabs the gun and you said he  
18 drags her up the steps; is that right?

19 A Yes.

20 Q And when they go up the steps you stay in  
21 the kitchen?

22 A Yes.

23 Q Now, repeat to me what it is you hear once  
24 they go upstairs?

25 A I just hear her telling him to leave her

1 alone.

2 Q Do you hear them fighting, any struggling  
3 going on?

4 A I just hear them arguing.

5 Q Do you hear any struggling going on?

6 A Not really.

7 Q Back when they were in the kitchen, you  
8 saw my client punch her in the face. How  
9 many times did you see him punch her?

10 A Once.

11 Q Just once?

12 A Twice, yeah.

13 Q Now, when they were upstairs you hear the  
14 arguing. Then what's the next thing you  
15 hear?

16 A Just hear a gunshot.

17 Q How many gunshots?

18 A I heard one before I went upstairs.

19 Q You heard one gunshot?

20 A (Witness nods head.)

21 Q And then you went upstairs to do what?

22 A Go see what was going on.

23 Q Now, can you describe when you go upstairs  
24 what it is you see, the room and  
25 everything, where she's situated in that



1 room, where he's situated in that room,  
2 where do you see him firing the gun?

3 A Towards the floor.

4 Q Well, why don't you go back to the diagram  
5 and show us the upstairs area and what it  
6 is you recall up there.

7 A (The witness complies.)

8 MR. BATSON: Do you need Heffner to help you  
9 out? Judge, are you going to let her talk  
10 to the affiant? That's why I wanted him  
11 to be sequestered. She's talking to  
12 Heffner trying to get the diagram drawn,  
13 and I don't think that's appropriate. And  
14 that's why I asked him to be sequestered.

15 A I just made a statement that I don't know  
16 how to draw.

17 Q I don't understand that -- I'm sorry --  
18 what did you see when you go upstairs?

19 A I seen him standing in the doorway.

20 Q Is there a room there?

21 A This is the room right here.

22 Q What's in the room that you see?

23 A I guess it's the bedroom.

24 Q Did you see a bed there?

25 A I don't see much in there.

1 Q So you don't see anything but him standing  
2 in the room and you don't recall whether  
3 there's a bed there, whether there's a  
4 couch there, a TV there, anything like  
5 that?

6 A I just peeked up the steps. That's all.

7 Q When you looked in there -- when you  
8 looked in there you said you saw my client  
9 standing next to the corner. Surely you  
10 had to see something in the corner.

11 A I don't remember seeing anything.

12 Q Okay. You don't remember seeing a bed  
13 there?

14 A No.

15 Q Do you remember seeing a weight bench  
16 there?

17 A No.

18 Q How about a TV there?

19 A I don't remember seeing nothing. I just  
20 remember what happened. That's all I was  
21 focused on.

22 Q Did you see Iris at any time up there in  
23 the room?

24 A I couldn't see her.

25 Q Let me ask you this, what was Iris wearing

1           when you saw her?

2           A    She was wearing some pajamas.

3           Q    Now, the question was already asked of you  
4           whether or not there was somebody else  
5           upstairs and you said you saw somebody  
6           named Kazar. I'm going to ask you where  
7           Kazar was at in relation to that bedroom.  
8           Where was Kazar in relation to --

9           A    I seen him coming out of the room.

10          Q    Out of what room?

11          A    This room.

12          Q    Out of the bedroom?

13          A    Yes.

14          Q    Is that the only thing that was up there  
15          was the bedroom?

16          A    No.

17          Q    What else was up there?

18          A    I don't know. I don't remember.

19          Q    I can't hear you.

20          A    I said I don't remember. I just peeked  
21          upstairs. I wasn't analyzing her whole  
22          house.

23          Q    Was Kazar coming out of the same room my  
24          client was standing in?

25          A    Yes, he was.

1 Q You can have a seat. Now, who's Kazar?

2 A I don't know. I know his name and face.

3 Q How do you know him?

4 A Seen him around.

5 Q Okay. You see Kazar around, and he was in  
6 the room prior to my client going  
7 upstairs; is that right?

8 A I don't know if he was in the room before  
9 he went upstairs. I heard people like in  
10 the living room and I seen him coming out  
11 of the room.

12 Q You said people. So there's more than one  
13 person you heard?

14 A I heard just one person I guess.

15 Q Was he talking to himself? What was he  
16 doing that you heard?

17 A I heard him looking through stuff like  
18 papers and stuff.

19 Q You said you saw my client with the weapon  
20 in his hand and you saw him shoot the  
21 weapon?

22 A Yes.

23 Q Now, you can't say that you saw him shoot  
24 the victim, can you?

25 A No.

1 Q Because you didn't see the victim there?

2 A No.

3 Q You don't even know if she was in the room  
4 or whether she was in the living room or  
5 some other room?

6 A She was in that room. I heard a thump  
7 right over top of me and that's where the  
8 bedroom was.

9 Q I understand that. But you didn't see her  
10 when you went upstairs?

11 A No.

12 Q So you don't know if she was in that room?

13 A I know she was in that room. I'm hearing  
14 them.

15 Q You said you heard a thump but when you  
16 get upstairs you don't see her; is that  
17 correct?

18 A Yes.

19 Q So you didn't see my client shooting her,  
20 right?

21 A I seen him shoot.

22 Q But you don't see him shoot her?

23 A No.

24 Q You see this other individual, Kazar,  
25 running out of the room?

1 A Yes.

2 Q Does he say anything to you?

3 A No.

4 Q Does he say anything to my client?

5 A No.

6 Q Now, once that individual runs out of the  
7 room, what do you do?

8 A I run out of the house.

9 Q Now, before you run out of the house, do  
10 you see anything else?

11 A No.

12 Q Did you see my client leave the house?

13 A He ran behind me.

14 Q He ran out the same door you ran out?

15 A I guess.

16 Q I'm asking you. You're the one who said  
17 you saw him.

18 A I wasn't looking behind me when I was  
19 running.

20 Q So the answer is, you didn't see my client  
21 leave the house?

22 A No.

23 Q Do you recall also at the preliminary  
24 hearing that was held back on January 17th  
25 of 1997, do you recall giving testimony at

1                   that hearing?

2           A     Yes.

3           Q     Do you recall at that time testifying  
4                   under oath and saying that when you were  
5                   at Balm Street you immediately left Balm  
6                   Street and went to your grandmother's  
7                   house and you never went to Iris's house?  
8                   Do you recall saying that?

9           A     No.

10          Q     I'm sorry?

11          A     No.

12          Q     Well, would it help if I refresh your  
13                   recollection with the transcript?

14          A     You can try.

15          Q     Transcript dated January 17, 1997, page  
16                   15, if you would like to read lines 8  
17                   down. I'm going to show you this  
18                   transcript starting actually from  
19                   line 1 to line 16 -- actually line 20.  
20                   Why don't you read from line 1 to line 20  
21                   to see if that refreshes your  
22                   recollection.

23          A     (Witness complies.)

24          Q     Are you finished reading.

25          A     Um-hum.

1 Q Does that refresh your recollection in  
2 reference to that statement that when you  
3 left Balm Street you went straight to your  
4 grandmother's house?

5 A No.

6 Q You don't recall saying this --

7 A No.

8 Q -- that's in this transcript?

9 A (Witness shook head.)

10 Q So even though the transcript said you  
11 went right to your grandmother's house,  
12 you're denying that that's in the  
13 transcript?

14 A I'm not denying that it's in the  
15 transcript. I just don't remember saying  
16 it.

17 Q Would you agree that your memory was a lot  
18 better back in 1997 than it is today in  
19 2002?

20 A It's the same, a little bit -- I had a lot  
21 going on. I got two kids and better  
22 things to think about.

23 Q I understand that. But January 17th of  
24 1997 is a lot closer to December 20, 1996  
25 than today, March 5, 2002 is. Would you